1761551N25A - SH-AD-32A (OAS 6/97)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition Of Service"

DATE: July 28, 2011
FILE: SH2256410

OFFICE CORRESPONDENCE

FROM: JOSEPH S. HARTSHORNE, COMMANDER
OFFICE OF THE UNDERSHERIFF

TO: JOSEPH M. GOODEN, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:
DEPUTY KENNETH FITCH #[redacted]
INMATE RECEPTION CENTER

Deputy Kenneth Fitch, who was off-duty, was at the Mariscos Puerto Escondido Restaurant in East Los Angeles with his [redacted] Witness [redacted] At one point in the evening, Witness [redacted] had gone to the restroom where she encountered a long line. Standing by the door of the ladies room was a female, who was later identified as Suspect Rosa Loera. Witness [redacted] asked Suspect Rosa Loera, "What was the holdup on the line?" Suspect Rosa Loera told Witness [redacted] that someone inside "...taking care of business." Witness [redacted] left and used the mens room which was empty.

As Witness [redacted] and Deputy Fitch were leaving the restaurant, they were confronted by Suspect Rosa Loera. Suspect Rosa Loera said to Witness [redacted] "Why don't you talk shit now!" Witness [redacted] told Suspect Rosa Loera, "she was too classy." At which time, Suspect Rosa Loera punched Witness [redacted] in the face. Suspect Rosa Loera went to punch Witness [redacted] a second time when Deputy Fitch intervened by pushing Suspect Rosa Loera away.

After he pushed Suspect Rosa Loera away, Deputy Fitch was assaulted by Suspects Thad Downs, Marco Ruano, Juan Arreola, Ignacio Loera Jr., and Ignacio Loera Sr. The five suspects punched and kicked Deputy Fitch while trying to pull him to the ground. Deputy Fitch was able to break away from the suspects and run through the parking lot between several cars until his path was blocked by a fence. He turned and saw the suspects were still pursuing him. Believing the suspect were going to continue their assault, take him down to the ground and cause him serious injury or death, Deputy Fitch drew his off duty weapon from his waistband and fired one round at the suspect who was closest to him. The round struck Suspect Arreola in the left hand and chest.

After the shooting, Suspect Arreola ran to the rear patio area of the restaurant and sat at one of the tables. The other five suspect fled. Deputy Fitch then called East Los Angeles Sheriff's Station to report the incident.

On July 21, 2011 the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MPP §§ 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Kenneth Fitch was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by Deputy Fitch in this incident were within Department Policy.

JSH:RSP/rsp



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
SHARON J. MATSUMOTO • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

September 22, 2014

Captain Duane Harris
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File No. 09-0762
L.A.S.D File No. 009-00132-3199-054

Dear Captain Harris:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 5, 2009, non-fatal shooting of Juan Arreola by Los Angeles County Sheriff's Department (LASD) Deputy Kenneth Fitch. It is our conclusion that Deputy Fitch acted in lawful self-defense.

The District Attorney's Command Center was not notified of this shooting and therefore the District Attorney Response Team (DART) did not respond.

The following analysis is based on reports prepared by the Los Angeles Police Department (LAPD) and the LASD submitted to this office by LASD Homicide Sergeants Barry Hall and Raymond Biddle. The voluntary statements of Deputy Fitch were considered as part of this analysis.

FACTUAL ANALYSIS

On December 5, 2009, LASD Deputy Kenneth Fitch, who was off duty, went to the Mariscos Puerto Escondido Restaurant in the City of Los Angeles with his [redacted] and [redacted] friend [redacted] to celebrate [redacted] birthday.

While at the restaurant, [redacted] went to use the restroom where she argued with another female, Rosa Loera. Loera became angry when [redacted] asked how long Loera's [redacted] was going to occupy the toilet stall. After the confrontation with Loera, [redacted] used another restroom at the restaurant and returned to her table.

Approximately an hour later, Fitch, [redacted] and the rest of their party exited the restaurant. Outside, Rosa Loera approached [redacted] insulted her and punched her in the face. When Rosa

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Loera attempted to punch [redacted] again, Fitch intervened and pushed Loera away. Immediately thereafter, several males accompanying Loera, later identified as Thad Downs, Marco Ruano, Juan Arreola, Ignacio Loera Jr., and Ignacio Loera, Sr., attacked Fitch and struck him with their hands and feet on his face, head and groin. As the men struck Fitch, Fitch felt someone pulling his shirt downward, attempting to knock him down to the ground.

In fear for his life and with the hope that his attackers would stop their assault, Fitch broke off from the group and ran into the parking of the restaurant between several parked cars. All of Fitch's attackers, except for Rosa Loera and Ignacio Loera, Sr., pursued him. At the point of exhaustion, injured and believing that the attackers were going to beat him to death, Fitch removed his off-duty firearm, a .38 caliber revolver, from his waistband. Juan Arreola was within an arm's distance with the other men following behind him. Fitch raised the revolver and pointed it at Arreola. When Arreola continued to come at Fitch, Fitch fired one round from the revolver and struck Arreola in the hand and chest. Arreola and the other three men then ran away from Fitch.

Thad Downs, Juan Arreola, Marco Ruano and Rosa Loera remained at the restaurant. Fitch called 9-1-1; several LASD deputies and officers from the LAPD responded and placed Downs, Arreola and Ruano under arrest.[1] Loera, Sr. and Loera Jr., who fled the location, were not placed under arrest. Rosa Loera was interviewed as a witness and was not taken into custody. Arreola was transported to the hospital where he received treatment for a single gunshot wound and survived his injury. Fitch was transported to the hospital where he was treated for a possible concussion, lacerations and bruised and swollen testicles.

Based on their continuing investigation, LAPD detectives determined that Rosa Loera, Loera, Sr. and Loera, Jr. had also taken part in the assault on Fitch along with Arreola, Downs and Ruano. All six of Fitch's attackers were charged in case BA365461 with one felony count of assault by means likely to produce great bodily injury [Penal Code section 245(a)(1)]; all six pled as charged and were sentenced to county jail terms ranging from 180 days to 365 days in addition to being placed on formal probation for three years.

CONCLUSION

The use of deadly force in self-defense is justifiable if the person claiming the right actually and reasonably believed the following: (1) that he or someone else was in imminent danger of being killed or suffering great bodily injury; (2) that the immediate use of force was necessary to defend against that danger; and (3) that he used no more force than was reasonably necessary to defend against that danger. See, *CALCRIM No. 505.* Great bodily injury means significant or substantial physical injury and is an injury that is greater than minor or moderate harm. See, CALCRIM 505.

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[1] The Mariscos Puerto Escondido Restaurant falls within an area serviced by the LAPD. Therefore LAPD officers responded to Fitch's 9-1-1 call along with LASD deputies. Personnel from both departments jointly investigated and prepared this case.

The use of deadly force in self-defense situations or in the defense of others is permissible if it reasonably appears to the person claiming the right of self-defense that he actually and reasonably believed he or others were in imminent danger of great bodily injury or death. People v. Mercer (1962) 210 Cal.App.2d 153.

A person exercising self-defense is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger of death or bodily injury has passed. This is so even if safety could have been achieved by retreating. *See*, CALCRIM 505.

Where the peril is swift and imminent and the necessity for action is immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 189 Cal. App. 2d 575.

The evidence examined shows that Downs, Ruano, Arreola, Loera, Sr., Loera, Jr., and Rosa Loera attacked Fitch without provocation and struck him with their hands and feet on his face, head and groin. When Fitch attempted to escape after being severely beaten, Arreola, Downs, Ruano and Loera, Jr., followed him outside to continue their assault. Fitch, in a near state of exhaustion and already injured by his attackers, reasonably believed that he would be severely injured or beaten to death if he did not act in self defense immediately. Fitch removed his off duty firearm from his waistband and pointed it at Arreola, the closest attacker, with hope of frightening him into stopping the assault. Arreola, however, continued to advance towards him with the three other men behind him. Fitch fired one shot from his revolver at Arreola and stopped the assault. Fitch reasonably feared that if he did not shoot Arreola, he would be severely injured or killed by Arreola and the other three men pursuing him.

Given these facts and circumstances, we find that Deputy Kenneth Fitch acted in lawful self-defense. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

By

OSCAR PLASCENCIA
Deputy District Attorney
(213) 974-3888

c: Deputy Kenneth Fitch, #[redacted]

Table of Contents

IAB CASE NO. SH2256410

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date: 11-25-10	Bureau/Station/Facility: Inmate Reception Center	Admin. Invest.? ☐	Hit? ☒

Incident Information

URN: 009-00132-3199-054	Date: 12-05-09 — Time: 0200
City or Station: Los Angeles	Nature of Incident: Deputy Fitch, who was off-duty, was assaulted by five suspects when he tried to prevent an assault on Witness [redacted] Deputy Fitch fired one round striking Suspect Arreola in the left hand and chest.
Location: 3740 E Whittier Boulevard	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, **Parking Lot**, Residence, Rural, School, Street, Other: ______

Lighting (*circle only one*): **Darkness**, Daylight, Other, Street Lights

Weather (*circle only one*): Clear, **Cloudy**, Fog, Rain

Distance: 5 feet

Incident Type (*circle one or more*): Accidental, Armed Person, Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, **Struggle Involved**, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other: Multiple Suspects

Initiated by (*circle only one*): Arrest Warrant, Call, Observation, One Person Unit, **Other**, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, **Other**, Routine Patrol

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect	Aero Unit? ☐	Canine Unit? ☐
1	0		

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name [redacted] First Name [redacted] M.I. [redacted]
Street Ad[redacted] City [redacted] Zip Code [redacted] Work Ph [redacted] Home Ph [redacted]

Last Name [redacted] First Name [redacted] M.I. [redacted]
Street Address [redacted] City [redacted] Zip Code [redacted] Work Ph [redacted] Home Ph [redacted]

Last Name [redacted] First Name [redacted] M.I. [redacted]
Street Address [redacted] City [redacted] Zip Code [redacted] Work Ph Home Ph [redacted]

Supervisors

Employee #	Last Name	First Name	M.I.	(*circle one or more*)
				On Duty / Present during shooting / Witness to shooting / Involved in shooting
				On Duty / Present during shooting / Witness to shooting / Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.

Watch Commander

Employee #	Last Name	First Name	M.I.

PSTD Use Only

SH # 2256410

Officer Involved Shooting

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
12-05-09	0400		

Employee #	Last Name	First Name	M.I
[redacted]	Allen	Victor	M
[redacted]	Flores	Dave	
[redacted]	Ault	Alicia	

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	PK					ST	GR
S#1	E#1	PH					BR	FA
S#2	E#1	PK					ST	GR
S#2	E#1	PH					BR	FA
S#3	E#1	PK					ST	GR
S#3	E#1	PH					BR	FA
S#4	E#1	PK					ST	GR
S#4	E#1	PH					BR	FA
S#6	E#1	PK					ST	GR
S#6	E#1	PH					BR	FA
E#1	S#1-6	PH					NN	
E#1	S#3	FH	SW	38	Y	Y	GS	HD
E#1	S#3	FH	SW	38	Y	Y	GS	CH

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 009-00132-3199-054

Involved Employee

E 1

Employee # [redacted]	Last Name: Fitch	First Name: Kenneth	M.I.: A.
Sex: M Race: W	Rank: Deputy	Unit Assignment: Inmate Reception Center	Work Assignment (Unit #, Module, etc.): Custody Line
ShiftTime (*circle only one*): EM (PM) Day	ShiftType (*circle only one*): Regular Overtime (Off Duty)	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: / Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): (Plain Clothes no Vest) / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors: [redacted]
Age: [redacted]	Height: 508	Weight: 170	
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp #	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp #	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

E __

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors:
Age:	Height:	Weight:	
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E __

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors:
Age:	Height:	Weight:	
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting Suspect Information

URN: 009-00132-3199-054

Suspect Information

S 1

Field	Value	Field	Value	Field	Value
Last Name	Downs III	First Name	Thad	M.I.	
AKA Last Name		First Name		M.I.	
Sex:	M	Race:	B		
Street Address:	[redacted]	City	[redacted]	State & Zip Code:	[redacted]
Work Phone:		Home Phone:	[redacted]	Social Security #:	[redacted]
Driver's License #:	[redacted]				
Age:	29	D.O.B.	04-17-80	Height:	611
Weight:	190	FBI #	[redacted]	CII #	[redacted]
Booking #	2153239	Primary Charge:	245(a)(1) PC	Secondary Charge:	
Coroner Case?	☐	Coroner Case #		Intoxication/Drug Usage?	☐
Substance Used:		Armed?	☐	Apprehended?	☒
Mental Illness?	☐	Criminal History?	[redacted]		
Vehicle Make		Model:		Year:	

S 2

Field	Value	Field	Value	Field	Value
Last Name	Ruano	First Name	Marco	M.I.	A.
AKA Last Name		First Name		M.I.	
Sex:	M	Race:	H		
Street Address:	[redacted]	City	[redacted]	State & Zip Code:	[redacted]
Work Phone:		Home Phone:	[redacted]	Social Security #:	
Driver's License #:	[redacted]				
Age:	20	D.O.B.	05-15-89	Height:	506
Weight:	180	FBI #	[redacted]	CII #	[redacted]
Booking #	2153238	Primary Charge:	245(a)(1) PC	Secondary Charge:	
Coroner Case?	☐	Coroner Case #		Intoxication/Drug Usage?	☐
Substance Used:		Armed?	☐	Apprehended?	☒
Mental Illness?	☐	Criminal History?	[redacted]		
Vehicle Make		Model:		Year:	

S 3

Field	Value	Field	Value	Field	Value
Last Name	Arreola	First Name	Juan	M.I.	
AKA Last Name		First Name		M.I.	
Sex:	M	Race:	H		
Street Address:	[redacted]	City	[redacted]	State & Zip Code:	[redacted]
Work Phone:		Home Phone:	[redacted]	Social Security #:	
Driver's License #:	[redacted]				
Age:	31	D.O.B.	09-06-78	Height:	600
Weight:	220	FBI #	[redacted]	CII #	[redacted]
Booking #	2154133	Primary Charge:	245(a)(1) PC	Secondary Charge:	
Coroner Case?	☐	Coroner Case #		Intoxication/Drug Usage?	☐
Substance Used:		Armed?	☐	Apprehended?	☒
Mental Illness?	☐	Criminal History?	[redacted]		
Vehicle Make		Model:		Year:	

S 4

Field	Value	Field	Value	Field	Value
Last Name	Loera Jr.	First Name	Ignacio	M.I.	C.
AKA Last Name		First Name		M.I.	
Sex:	M	Race:	H		
Street Address:	[redacted]	City	[redacted]	State & Zip Code:	[redacted]
Work Phone:		Home Phone:	[redacted]	Social Security #:	[redacted]
Driver's License #:	[redacted]				
Age:	20	D.O.B.	10-13-89	Height:	507
Weight:	130	FBI #	[redacted]	CII #	[redacted]
Booking #	2232007	Primary Charge:	245(a)(1) PC	Secondary Charge:	
Coroner Case?	☐	Coroner Case #		Intoxication/Drug Usage?	☐
Substance Used:		Armed?	☐	Apprehended?	☒
Mental Illness?	☐	Criminal History?	[redacted]		
Vehicle Make		Model:		Year:	

Officer Involved Shooting
Suspect Information

URN: 009-00132-3199-054

Suspect Information

S 5

Last Name: Loera		First Name: Rosa	M.I.: I.
AKA Last Name: Cervantes		First Name: Rosa	M.I.: I
Sex: F Race: H	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone:	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 37 D.O.B. 06-05-72	Height: 501 Weight: 150	FBI #: [redacted]	CII #: [redacted]
Booking #: 2153239	Primary Charge: 245(a)(1) PC	Secondary Charge: 240 PC	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make:		Model:	Year:

S 6

Last Name: Loera Sr.		First Name: Ignacio	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: M Race: H	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone:	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 38 D.O.B. 05-03-71	Height: 508 Weight: 200	FBI #: [redacted]	CII #: [redacted]
Booking #: 2232023	Primary Charge: 245(a)(1) PC	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make:		Model:	Year:

S__

Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

S__

Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

INVESTIGATIVE SUMMARY

INCIDENT: OFF-DUTY, HIT SHOOTING

IAB FILE NUMBERS: SH2256410

URN#: 009-00132-3199-054

DATE / TIME: SATURDAY, DECEMBER 5, 2009, 0200 HOURS

LOCATION: 3740 EAST WHITTIER BOULEVARD, LOS ANGELES

INVOLVED DEPUTY: DEPUTY KENNETH FITCH #[redacted]
INMATE RECEPTION CENTER

SUSPECTS

THAD DOWNS III MB/29
IN-CUSTODY

MARCO RUANO MH/20
IN-CUSTODY

JUAN ARREOLA MH/31
IN-CUSTODY

IGNACIO LOERA JR. MH/20
IN-CUSTODY

ROSA LOERA FH/37
IN-CUSTODY

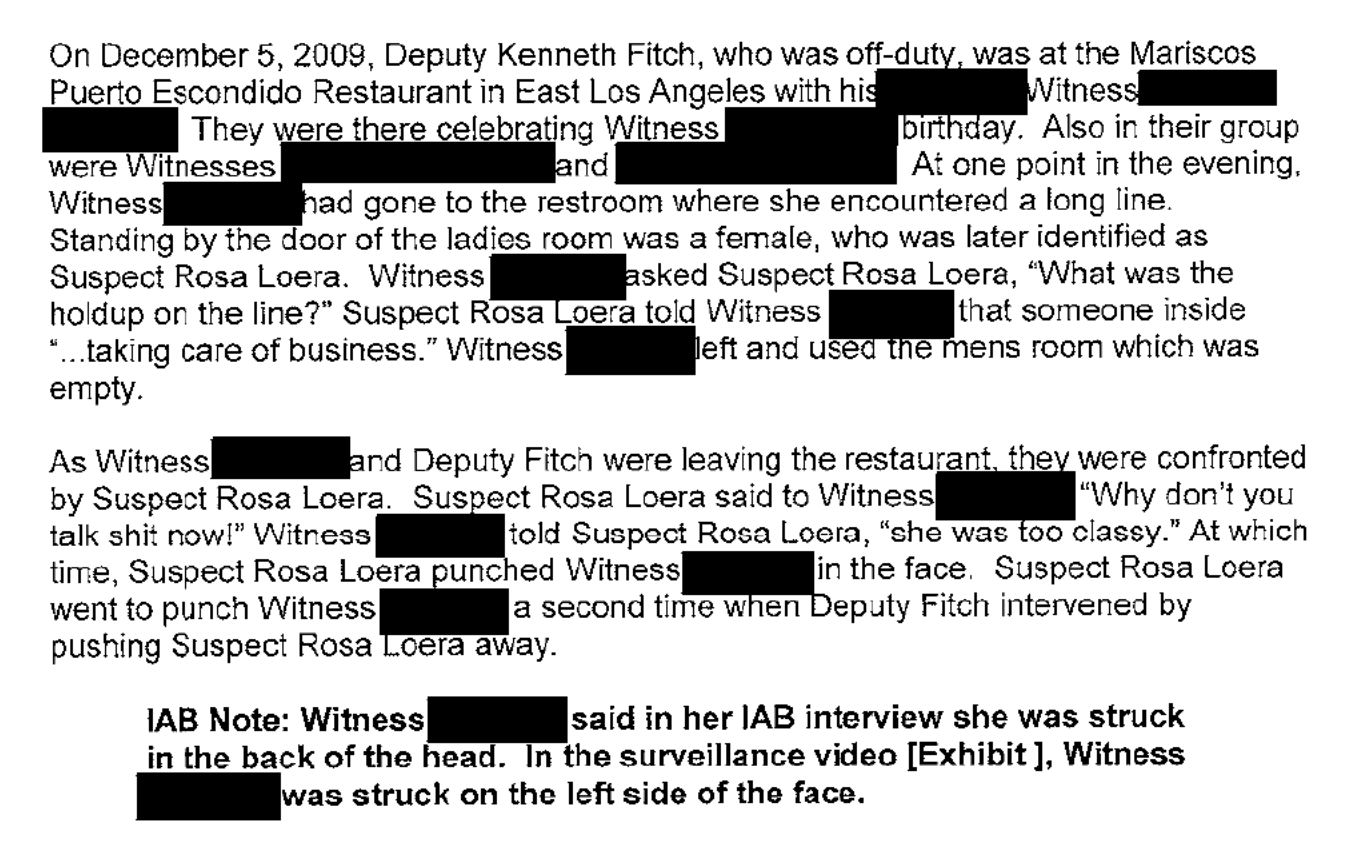
IGNACIO LOERA SR. MH/38
IN-CUSTODY

Opening Statement

On Saturday, December 5, 2009, Internal Affairs Investigators Sergeant Victor Allen, Sergeant David Flores and Lieutenant Alicia Ault responded to Mariscos Puerto Escondido Restaurant (3740 E. Whittier Boulevard, Los Angeles) regarding an off-duty

deputy involved hit shooting which resulted in a graze wound to the left hand and a gunshot wound to the chest of Suspect Juan Arreola. The Office of Independent Review was notified and Deputy Chief Attorney Rob Miller responded to the scene. The criminal investigation was handled by the Los Angeles Police Department's Robbery Homicide Division **[Exhibit A].**

Synopsis



On December 5, 2009, Deputy Kenneth Fitch, who was off-duty, was at the Mariscos Puerto Escondido Restaurant in East Los Angeles with his [redacted] Witness [redacted] They were there celebrating Witness [redacted] birthday. Also in their group were Witnesses [redacted] and [redacted] At one point in the evening, Witness [redacted] had gone to the restroom where she encountered a long line. Standing by the door of the ladies room was a female, who was later identified as Suspect Rosa Loera. Witness [redacted] asked Suspect Rosa Loera, "What was the holdup on the line?" Suspect Rosa Loera told Witness [redacted] that someone inside "...taking care of business." Witness [redacted] left and used the mens room which was empty.

As Witness [redacted] and Deputy Fitch were leaving the restaurant, they were confronted by Suspect Rosa Loera. Suspect Rosa Loera said to Witness [redacted] "Why don't you talk shit now!" Witness [redacted] told Suspect Rosa Loera, "she was too classy." At which time, Suspect Rosa Loera punched Witness [redacted] in the face. Suspect Rosa Loera went to punch Witness [redacted] a second time when Deputy Fitch intervened by pushing Suspect Rosa Loera away.

> **IAB Note: Witness [redacted] said in her IAB interview she was struck in the back of the head. In the surveillance video [Exhibit], Witness [redacted] was struck on the left side of the face.**

After he pushed Suspect Rosa Loera away, Deputy Fitch was assaulted by Suspects Thad Downs, Marco Ruano, Juan Arreola, Ignacio Loera Jr and Ignacio Loera Sr. The five suspects punched and kicked Deputy Fitch while trying to pull him to the ground. Deputy Fitch was able to break away from the suspects and run through the parking lot between several cars until his path was blocked by a fence. He turned and saw the suspects were still pursuing him. Believing the suspect were going to continue their assault, take him down to the ground and cause him serious injury or death, Deputy Fitch he drew his off duty weapon from his waistband and fired one round at the suspect who was closest to him. The round struck Suspect Arreola in the left hand and chest. Refer to the photos **[Exhibit B]** for Deputy Fitch's approximate position at the time of the shooting. After the shooting, Suspect Arreola ran to the rear patio area of the restaurant and sat at one of the tables. The other five suspect fled. Deputy Fitch then called East Los Angeles Sheriff's Station to report the incident.

A portion of the incident was captured on the restaurant's surveillance camera. One

camera angle (Camera 7) shows Deputy Fitch and Witness [redacted] leaving through the back door and rear patio area. They were followed out by several individuals. About a minute later, Suspect Arreola is seen returning to the rear patio area with a gunshot wound to the chest. The second camera angle (Camera 8) shows the assault by Suspect Rosa Loera on Witness [redacted] Deputy Fitch pushing Suspect Rosa Loera away and the initial assault on Deputy Fitch. The assault on Deputy Fitch moves out of the view of the camera. There were four additional cameras (Cameras 2,3,4, and 6) that capture the interior of the restaurant; however, these angles did not capture this incident. Refer to the DVD **[Exhibit C]** for further.

On December 8, 2009 the Los Angeles District Attorney's Office filed one FELONY count of Assault by Means Likely to Produce Great Bodily Injury, 245(a)(1) P.C. on Suspects Thad Downs, Marco Ruano and Juan Arreola. Refer to pages 61 - 66 of **[Exhibit A].** On January 21, 2010, a FELONY arrest warrant was issued for Suspects Ignacio Loera Sr., Ignacio Loera Jr., and Rosa Loera for Assault by Means Likely to Produce Great Bodily Injury, 245(a)(1) P.C. Refer to pages 70 - 72 of **[Exhibit A].**

On July 8, 2010, the six suspects pled guilty to a FELONY count of Assault by Means Likely to Produce Great Bodily Injury, 245(a)(1) P.C. Refer to pages 73 - 79 of **[Exhibit A].**

Involved Personnel

Deputy Kenneth Fitch
Inmate Reception Center

Work History

Date of Employment:	**June 19, 2006**
Date Assigned to Patrol:	[redacted]
Date Completed Patrol Training:	
Date Assigned to IRC:	**October 6, 2006**
Prior Shooting Incident(s):	[redacted]
Prior Founded Force Incident(s):	

Suspects

Thad Downs III MB/29
DOB 04-17-80
Booking #2153239

Marco Ruano MH/20
DOB 05-15-89
Booking #2153239

Juan Arreola MH/31
DOB 09-06-78
Booking #2154133

Ignacio Loera Jr. MH/20
DOB 10-13-89
Booking #2232007

Rosa Loera FH/37
DOB 06-05-72
Booking #2153239

Ignacio Loera Sr. MH/38
DOB 05-03-71
Booking #2232023

Witnesses

[redacted]

On Monday Wednesday, December 15, 2010, IAB Investigators Victor Allen and Kelly Adler interviewed Witness [redacted] at 400 Corporate Point Drive, Culver City.

Witness [redacted] stated she was at Mariscos Puerto Escondido Restaurant with Deputy Fitch. Also with them were her [redacted], her [redacted] friend [redacted] and her [redacted] At one point in the evening, Witness [redacted] stated she went to the ladies restroom. At the restroom, Witness [redacted] said she found a line. She said she approached a girl at the door and asked why it was taking so long. The girl, who was later identified as Suspect Rosa Loera, told her someone was inside "taking care of business." Witness [redacted] said she asked what that meant and Suspect Rosa Loera replied, "Just business." At that time, Witness [redacted] stated she decided to use the mens room, since no one was in there.

As she was leaving the restaurant with Deputy Fitch, Witness [redacted] said she was confronted by Suspect Rosa Loera. Suspect Rosa Loera said to her, "Why don't you talk shit now?" Witness [redacted] said she asked Suspect Rosa Loera what she was talking about. Suspect Rosa Loera referred to the conservation at the ladies room. Witness [redacted] said she told Suspect Rosa Loera she was "too classy for this." It was at that time, Witness [redacted] said Suspect Rosa Loera said, "I'm gonna kick your ass." Suspect Rosa Loera then punched Witness [redacted] in the back of the head. Witness [redacted] said Suspect Rosa Loera went to punch her a second time when Deputy Fitch pushed her away.

Witness [redacted] said three to five guys came out of nowhere and rushed Deputy Fitch. She said they were punching him in the face, kicking him and trying to get him on the

ground. While Deputy Fitch was being assaulted, Witness [redacted] said she was being assaulted by Suspect Rosa Loera. However, Witness [redacted] said she saw Deputy Fitch with his gun out. She said she heard Deputy Fitch tell the suspects to "back off," but they continued to go toward him. It was then, Deputy Fitch shot his gun. After he shot, Witness [redacted] said Deputy Fitch grabbed her and called the station [East Los Angeles].

[redacted]

Witness [redacted] sated she was at Mariscos Puerto Escondido Restaurant with Deputy Fitch. However, at the time of the shooting she was still inside and did not see what happened.

[redacted]

Witness [redacted] stated he had been at Mariscos Puerto Escondido Restaurant with Deputy Fitch. As he was walking out the door to the parking lot, he said he heard a gunshot. After the gunshot, Witness [redacted] said he saw a couple of people running around, but he did not see what happened prior to the shooting.

[redacted]

Witness [redacted] was interviewed by IAB Sergeant Allen by telephone. Her statement was not recorded. Witness [redacted] stated she had been at Mariscos Puerto Escondido Restaurant with Deputy Fitch, but she had gone home prior to the shooting.

[redacted]

Witness [redacted] was interviewed by LAPD Detectives [redacted] and [redacted] regarding a [redacted]

Witness [redacted] stated on December 24, 2009, he went to court and was placed in a [redacted] with Suspect Arreola. Suspect Arreola proceeded to tell him how he was shot. Witness [redacted] said Suspect Arreola told him he had gone out to eat with some friends. The women his group got into a verbal and physical altercation and an off duty deputy tried to break it up. It was at that time, Witness [redacted] said Suspect Arreola told him that "Taz" [Suspect Downs] and another male began "whooping his ass" referring to Deputy Fitch. The Deputy pulled out his gun and shot Suspect Arreola in the hand and chest. Witness [redacted] stated that there was a fourth male present, but he was not arrested. Additionally, Witness [redacted] said that Suspect Arreola told him the Deputy had identified himself to them. Witness [redacted] said Suspect Arreola said he could tell he was the police before he tried to identify himself. Suspect Arreola told him they were going to deny that the deputy identified himself. Witness [redacted] stated the attorney for Suspects Arreola and Downs came to visit him. The attorney asked him not to repeat

what he was told by Suspect Arreola because they had a good civil suit. Witness [redacted] said the attorney offered to represent him, which he said he had not accepted his offer.

Injuries

Deputy Fitch sustained an injury to his groin, a bruise and laceration to his right eye, scrapes to his face and bumps to his head.

Suspect Arreola sustained a graze wound to his left hand and a gunshot wound to the chest.

Physical Evidence

There was a blood trail from the left front tire of a tan Honda Accord, which was parked at the base of the rear ramp to the restaurant. The trail went up the ramp to the rear patio area. On the ground at the end of the trail was a white tee shirt that stained in blood. Near the tee shirt was a white table cloth that was stained in blood. Also, on the patio was an over turned table and chairs.

Investigators Observations

The Mariscos Puerto Escondido Restaurant was located in a strip mall along Whittier Boulevard. Parking for the restaurant was in a rear lot. The rear door of the restaurant led to a patio area and a ramp which went to the parking lot. Parked at the base of the ramp, were a tan Honda Accord and a black Nissan Quest. At the left front wheel of the Honda was a blood trail that led to the patio.

Weapon used by Deputy Kenneth Fitch

Smith & Wesson, .38 Caliber, 2" Revolver, 5 shot

> **IAB Note: The training records for Deputy Fitch indicate he [redacted] Refer to the shooting records [Exhibit G].**

Weapon used by the Suspects

Hands and Feet

Property Damage

None

Criminal Investigator

Detectives [redacted] and [redacted] of the Los Angels Police Department's Robbery Homicide Division.

Sergeants Barry Hall and Richard Biddle of the Los Angeles County Sheriff's Homicide monitored LAPD's investigation.

Lighting and Weather Conditions

The parking lot area was illuminated by neon lights around the exterior of the restaurant and two flood lights. The weather was clear and cold.

Additional Information

Thirty-eight phone calls made by Suspect Arreola from the [redacted] Detective [redacted] of the Los Angeles Police Department reviewed the calls. She stated the calls did not contain information regarding this incident. I reviewed several calls and I did not hear Suspect Arreola discussing the circumstances of the shooting. The calls are referenced in the audio video log by job numbers

IAB Interview of Deputy Kenneth Fitch

On Monday December 6, 2010, Deputy was Kenneth Fitch was interviewed by IAB Investigators Victor Allen and Kelly Adler. A follow-up interview was conducted on Monday, December 27, 2010 by IAB Investigator Victor Allen. The following is a summary of those interviews.

Deputy Fitch stated at about 2 A.M., he was leaving the Mariscos Puerto Escondido Restaurant with his [redacted]. They had been there celebrating Witness [redacted] birthday. As the they reached the bottom of the exit ramp in the rear of the restaurant, Deputy Fitch said a female Hispanic, who was later identified as Suspect Rosa Loera, approached Witness [redacted] and said, " Why don't you talk shit now!" Deputy Fitch stated Witness [redacted] told suspect Rosa Loera she was "too classy" and Witness [redacted] started to walk away. It was at that time, Deputy Fitch said Suspect Rosa Loera punched Witness [redacted] in the face. As Witness [redacted] tried to walk away, Deputy Fitch stated Suspect Rosa Loera attempted to punch Witness [redacted] again.

As Suspect Rosa Loera tried to hit Witness [redacted] again, Deputy Fitch said he stepped in and pushed Suspect Rosa Loera away to separate them. At that time, Deputy Fitch said five adults males assaulted him. The males, who were later identified as Suspects Thad Downs, Marco Ruano, Juan Arreola, Ignacio Loera Jr. and Ignacio Loera Sr., were punching and kicking him. In his estimation, Deputy Fitch said he was

punched and kicked about twenty times in his head, face and groin. As the Suspects tried to pull him to the ground, Deputy Fitch said he was able to break away. He said he ran through the parking lot between several cars until he ran into a dead end. As he came to a stop, Deputy Fitch said the suspects were still chasing him. At that time, he said he feared being seriously injured or killed by the suspects dragging him to the ground, stomping and kicking him. Deputy Fitch said he drew his .38 caliber revolver from his front waistband and fired one round at Suspect Arreola, who was the closes to him. The other suspects then turned and ran away. After the suspect fled, Deputy Fitch stated he called 9-1-1 on his cellular phone.

Suspect Statements

Suspect Rosa Loera

Suspect Rosa Loera was interviewed by Los Angeles Police Detectives [redacted] and [redacted] In her interview, she stated she had words with Witness [redacted] at the women's restroom in the restaurant. Later when she was leaving, Suspect Loera said she was walking out and she was mad. She said she saw Witness [redacted] was also leaving with her male friend [Deputy Fitch]. Witness [redacted] was closer to the door and they exited first. Suspect Loera stated she confronted Witness [redacted] as they walking down the ramp toward the parking lot and said, "you want to keep talking shit like you were in there?" Suspect Loera said she punched Witness [redacted] in the face. She was then pushed away by Deputy Fitch. Suspect Rosa Loera said she believed Suspect Arreola chased Deputy Fitch between some cars when she heard a gun shot. Later she stated she saw Suspect Arreola on the patio with a gunshot wound. Refer to pages 44-45 of **[Exhibit A]** for a summary of Suspect Rosa Loera's statement.

Thad Downs

Suspect Downs was interviewed by Los Angeles Police Detectives [redacted] and [redacted] In his interview, he stated he punched Deputy Fitch after he saw Deputy Fitch with his hands on Suspect Rosa Loera. Suspect Downs said he punched Deputy Fitch and chased him between some cars until Deputy Fitch turned and fired a gun. Suspect Downs stated he ran over to Indiana Avenue after the shooting. Refer to page 47 of **[Exhibit A]** for a summary of Suspect Downs statement.

Juan Arreola

Suspect Arreola was interviewed by Los Angeles Police Detectives [redacted] and [redacted] In the interview with LAPD, Suspect Arreola stated he was at the restaurant with family and friends. He had been there since about 9:00 P.M. During the evening, he stated he drank four to five beers with dinner. As they were leaving, he said he saw some people arguing. Suspect Arreola said he was walking out trying to see what was going on when he was shot.

Later, Suspect Arreola admitted he socked Deputy Fitch. He stated he socked Deputy Fitch once or twice after he saw him pull Suspect Rosa Loera's hair. Suspect Arreola said he believed Suspect Ignacio Jr and "Taz" [Suspect Thad Downs] may have also socked Deputy Fitch. He said Deputy Fitch fought back and moved fast between several cars to get away. Suspect Arreola said he did not recall chasing Deputy Fitch, nor did he see who shot him. Refer to page 14 of **[Exhibit A]** for a summary of Suspect Arreola's statement.

Ignacio Loera Sr.

Suspect Ignacio Loera Sr. was interviewed by LAPD Detectives [redacted] and [redacted] His interview was not recorded. He told them he was inside the restaurant and did not witness the fight or shooting. Refer to page 33 of **[Exhibit A].**

Marco Ruano

Suspect Marco Ruano was interviewed by LAPD Detectives [redacted] and [redacted] Although the police report indicated the interview was recorded, Detective [redacted] stated that notation was in error. Suspect Ruano denied being involved in the fight or hearing a gunshot. Refer to page 46 of **[Exhibit A].**

Ignacio Loera Jr.

Suspect Ignacio Loera Jr. was interviewed by LAPD Detectives [redacted] and [redacted] He invoked his right to counsel. Refer to page 43 of **[Exhibit A].**

<u>Miscellaneous</u>

IAB Lieutenant Alicia Ault checked to see that East Los Angeles Station Watch Commander, Lieutenant Richards took reasonable steps to ensure that the involved party and witnesses did not discuss the incident among themselves or with uninvolved persons prior to being interviewed by the assigned investigators, as well as the involved party and witnesses personnel did not collectively consult with their attorney or representative. In addition, IAB Lieutenant Ault checked to see if the watch commander attempted to have the involved party and witness personnel gather in the company of a supervisor until they have provided a statement to the assigned investigators.